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May 19, 2011

United States Magistrate Judge George A. Yanthis  
United States Courthouse  
300 Quarropas Street  
White Plains, NY 10601

By: ECF

RE: Flores v. J&B Club House Tavern, Inc.  
Docket No. 10 CV 04332 (GAY)

Dear Judge Yanthis:

Reference is made to the above captioned matter. Plaintiffs in this matter are represented by the firm of Seham, Seham, Meltz & Petersen, LLP and the Defendants are represented by the firm of Friedman, Harfenist, Kraut & Perlstein.

I write to request that the Court extend the discovery schedule in this matter and Order certain milestones as an aid to the completion of discovery. I have spoken with counsel for the Plaintiffs in an effort to obtain consent for the within application, but Plaintiffs indicate that they do not consent.

As the Court may recall, in December 2010, the parties had an initial conference with the Court, at which time the parties indicated that they were attempting to resolve the claims at issue. At the close of the conference, the Court set June 9, 2011 as a date for a telephone status conference and June 10, 2011 as an end date for all disclosure.

Following the initial conference, the parties attempted to resolve the outstanding claims and on February 15, 2011, a stipulation discontinuing all claims brought by Plaintiff Marino Flores was filed with the Court. Thereafter, the parties attempted to resolve the remaining claims, however no settlement has been reached as of this juncture.

On April 22, 2011, the Plaintiffs served a first set of document and interrogatory demands and a demand for deposition which sought to depose the Defendants on May 27, 2011. As I was on vacation at the time, I did not receive a copy of these materials until my return to the office on April 28, 2011. On April 29, 2011, I served Defendants' Rule 26 disclosure as well as a set of interrogatory and deposition demands.

Following my receipt of the Plaintiffs' demands I conferred with my client in an attempt to obtain the materials which were needed in order to formulate proper

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responses to the Plaintiffs' demands. Having spoken and corresponded with my client on multiple occasions, it appears that the Defendants will require an additional thirty (30) days to formulate proper responses to the document and interrogatory demands served by the Plaintiffs. As such, I wrote to Plaintiffs' counsel today by electronic and first class mail and requested that the time to respond to written discovery be extended and that the deposition which Plaintiffs scheduled for Friday May 27, 2011 be rescheduled. Additionally, I requested that Plaintiffs counsel serve his clients' Rule 26 disclosures which still have not been received as of today's date.

Following the transmission of my letter I spoke with Plaintiffs' counsel and he indicated to me that Plaintiffs are unwilling to extend Defendants' time to respond to Plaintiffs' demands or to adjourn the deposition from next Friday. Additionally, he indicated to me that the Plaintiffs would not consent to an application to extend discovery in this matter. As such, I am required to make the instant application.

As mentioned above, the parties did attempt to resolve the claims in this matter and were negotiating into March and early April. As documentary discovery only began in late April and it will take time for the Defendants to obtain the materials required to respond to Plaintiffs April 22, 2011 demands, it is respectfully requested that the Court extend discovery based on the following milestones:

- (1) All documentary discovery responses (including interrogatory responses) to be served by June 30, 2011;
- (2) All depositions to be completed by July 30, 2011;
- (3) All post deposition document responses to be served by August 15, 2011;
- (4) Status Conference with the Court to be held on a date convenient for the Court in late August.

I have spoken to counsel for the Plaintiff in relation to his availability for a telephone conference with the Court and he informs me that the only date next week that he is available is Thursday May 26, 2011. Should this date be convenient for the Court, I will make myself available at whichever time the Court selects.

Thank you for your attention to this matter.

Sincerely,  
FRIEDMAN, HARTENIST, KRAUT & PERLSTEIN

By:

  
Neil Torczyner

CC: Seham, Seham, Meltz & Petersen, by electronic mail